

(3) States in a clear and definite manner each issue arbitrated and the disposition of each issue, and

(4) Is filed within 20 days of the date of the award.

(f) Once the award is filed, the parties to the award may not take actions inconsistent with the award. If the award is dispositive of the contested subject matter for a party, the Board may enter judgment as to that party.

#### § 41.127 Judgment.

(a) *Effect within Office*—(1) *Estoppel*. A judgment disposes of all issues that were, or by motion could have properly been, raised and decided. A losing party who could have properly moved for relief on an issue, but did not so move, may not take action in the Office after the judgment that is inconsistent with that party's failure to move, except that a losing party shall not be estopped with respect to any contested subject matter for which that party was awarded a favorable judgment.

(2) *Final disposal of claim*. Adverse judgment against a claim is a final action of the Office requiring no further action by the Office to dispose of the claim permanently.

(b) *Request for adverse judgment*. A party may at any time in the proceeding request judgment against itself. Actions construed to be a request for adverse judgment include:

(1) Abandonment of an involved application such that the party no longer has an application or patent involved in the proceeding,

(2) Cancellation or disclaiming of a claim such that the party no longer has a claim involved in the proceeding,

(3) Concession of priority or unpatentability of the contested subject matter, and

(4) Abandonment of the contest.

(c) *Recommendation*. The judgment may include a recommendation for further action by the examiner or by the Director. If the Board recommends rejection of a claim of an involved application, the examiner must enter and maintain the recommended rejection unless an amendment or showing of facts not previously of record is filed which, in the opinion of the examiner, overcomes the recommended rejection.

(d) *Rehearing*. A party dissatisfied with the judgment may file a request for rehearing within 30 days of the entry of the judgment. The request must specifically identify all matters the party believes to have been misapprehended or overlooked, and the place where the matter was previously addressed in a motion, opposition, or reply.

[69 FR 50003, Aug. 12, 2004, as amended at 69 FR 58260, Sept. 30, 2004]

#### § 41.128 Sanctions.

(a) The Board may impose a sanction against a party for misconduct, including:

(1) Failure to comply with an applicable rule or order in the proceeding;

(2) Advancing a misleading or frivolous request for relief or argument; or

(3) Engaging in dilatory tactics.

(b) Sanctions include entry of:

(1) An order holding certain facts to have been established in the proceeding;

(2) An order expunging, or precluding a party from filing, a paper;

(3) An order precluding a party from presenting or contesting a particular issue;

(4) An order precluding a party from requesting, obtaining, or opposing discovery;

(5) An order excluding evidence;

(6) An order awarding compensatory expenses, including attorney fees;

(7) An order requiring terminal disclaimer of patent term; or

(8) Judgment in the contested case.

#### § 41.150 Discovery.

(a) *Limited discovery*. A party is not entitled to discovery except as authorized in this subpart. The parties may agree to discovery among themselves at any time.

(b) *Automatic discovery*. (1) Within 21 days of a request by an opposing party, a party must:

(i) Serve a legible copy of every requested patent, patent application, literature reference, and test standard mentioned in the specification of the party's involved patent or application, or application upon which the party will rely for benefit, and, if the requested material is in a language other